

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DREDGING INTERNATIONAL MEXICO S.A. DE C.V.,

Plaintiff,

-against-

OCEANOGRAFIA S.A. DE C.V.,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 4/15/08

07 Civ. 11394 (GEL)

**CONSENT ORDER DIRECTING
THE RELEASE OF
ATTACHED FUNDS SUBJECT
TO RULE B(1) ATTACHMENT**

WHEREAS on or about December 19, 2007, Dredging International Mexico S.A. de C.V. ("DIMEX") instituted this action against Oceanografia S.A. de C.V. ("Oceanografia"), pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure; and

WHEREAS, DIMEX has served Process of Maritime Attachment and Garnishment (the "PMAG") on various garnishees including the Bank of New York, Bank of America, and American Express Bank (collectively, the "Attaching Banks"); and

WHEREAS, pursuant to service of the PMAG upon them, the Attaching Banks have confirmed that they are holding certain funds in the form of Electronic Funds Transfers belonging to Oceanografia in the following amounts: (1) \$51,677.90 and \$25,000.00 at the Bank of New York; (2) \$100,000.00 at the Bank of America; and (3) \$1,200,000.00 at American Express Bank (collectively, the "Attached Funds"); and

WHEREAS, Defendant Oceanografia has disputed and denied the allegations contained in DIMEX's Verified Complaint filed in this proceeding, has filed counter-claims against DIMEX in this proceeding, and has requested counter-security from DIMEX on those counter-claims; and

WHEREAS, DIMEX and Oceanografia have entered into a Payment, Settlement Transaction, and Release Agreement on April 10, 2008 (the "Agreement") to resolve disputes between DIMEX and Oceanografia; and

WHEREAS, by the terms of the Agreement, a portion of the consideration to be paid to DIMEX in consideration for DIMEX releasing all claims against the Defendant is the Attached Funds held by the Attaching Banks; and

WHEREAS, by the terms of the Agreement, the Attached Funds are to be released to DIMEX in accordance with wire transfer instructions contained in that Agreement.

NOW, THEREFORE, it is hereby:

ORDERED that the attachment of the Attached Funds is hereby vacated and the Attaching Banks are directed to disburse the Attached Funds in their possession in accordance with the wire transfer instructions that DIMEX's attorneys DeOrchis & Partners, LLP will send to the Attaching Banks after the issuance of this Consent Order; and it is further

ORDERED that any other funds attached under the PMAG are to be released and wired in accordance with their original wiring instructions; and it is further

ORDERED that this Consent Order likewise shall apply to all further funds frozen by garnishees pursuant to the PMAG and release of such funds is directed without DIMEX and/or Oceanografia having to apply for a supplemental consent order. All such frozen amounts shall be transferred in accordance with the original wire instructions.

Dated: New York, New York
April 10, 2008

DEORCHIS & PARTNERS, LLP
Attorneys for Plaintiff Dredging International Mexico S.A. de C.V.

By: 

John A. Orzel, Esq.
61 Broadway
New York, NY 10006-2802
(212) 344-4700 / (212) 422-5299 fax

HOLLAND & KNIGHT LLP
Attorneys for Defendant Oceanografia S.A. de C.V.

By: 

Michael J. Frevola, Esq.
195 Broadway
New York, NY 10007
(212) 513-3200 / (212) 385-9010 fax

SO ORDERED:

 
U.S.D.J. Date